IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9233 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJENDRAKUMAR TULSIDAS SOLANKI
Versus
PRINCIPAL, L. D. ENGINEERING COLLEGE

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Appearance :
MR MANKAD for MR MUKUL SINHA for Petitioner,MR DT SONI for Petitioner.
MS FALGUNI PATEL, AGP for Respondent.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 13/09/2006

ORAL JUDGMENT

The petitioner is serving as a part-time Sweeper in L.D.Engineering College, Ahmedabad. According to the petitioner, he belongs to

Scheduled Caste category and he is working as a part-time Sweeper under the respondent since 15th May, 1986. It is also the case of the petitioner that he has enrolled his name with Employment Exchange. It is averred in the petition that the petitioner is doing his work sincerely and honestly and his work is also found to be good as per the remarks given by Hostel Superintendent, which is also annexed with the petition. It is averred in the petition that since the petitioner has continued on part-time basis since considerable time, his case may be considered for regular appointment.

Mr.Mankad, learned advocate for the petitioner submitted that by this time, the petitioner has put in about 20 year's service as a part-time Sweeper and there is no complaint regarding his work in any manner. It is further submitted that, therefore, the respondent should give him regular pay scale by treating his service as a regular Sweeper. It is argued by Mr.Mankad, learned advocate for the petitioner that it is not the case of the department that the services of the petitioner are no longer required. He further submitted that work of Sweeper is already in existence and full time work is also available.

At the time of admitting this petition, this Court has directed the respondent not to terminate the services of the petitioner.

Mr.Mankad, learned advocate for the petitioner has placed on record copy of the decision taken by Education Department on 24th June, 1999 in connection with giving benefit of regular scale to those part time 'Hamals' or 'Rojamdars', who have completed ten years of service. By said decision, it was directed that case of eleven part time employees of L.D.Engineering College (respondent herein) may be considered for giving them regular employment.

Mr.Mankad, learned advocate for the petitioner submitted that the case of the petitioner is identical with the case of the employees in whose favour aforesaid decision is taken by the Education Department.

Ms.Falguni Patel, learned AGP submitted that the petitioner is not regularly recruited as he was appointed only as a casual part time daily wager against leave vacancy. She further submitted that no benefit can be given to the petitioner with regard to regular scale or by making him a full time employee.

It is required to be noted that by this time the petitioner has put in about 20 years of service as a part time Sweeper. Considering the fact that considerable time has passed by now, since the initial appointment of the petitioner, it would be just and proper to direct the respondent to consider the case of the petitioner for regularization as per the decision of the Education Department dated 24th June, 1999. If the petitioner is entitled to get the benefit like other employees, whose reference is made in the order dated 24th June, 1999, petitioner's case should also be considered in that line and appropriate order may be passed in that behalf.

Under these circumstances, the petitioner is directed to make appropriate representation to the respondent annexing aforesaid decision of the Education Department dated 24-6-1999. Such representation may be made within a period of two months from today. If any representation is made, the respondent shall take appropriate decision on such representation expeditiously and in accordance with law and whatever may be the decision taken, the same may be communicated to the petitioner. At the time of taking decision,

respondent may consider whether aforesaid decision of the Education Department dated 24th June, 1999 is applicable in the case of the present petitioner and if it is found that aforesaid decision is applicable to the case of the petitioner, such benefit may be given to the petitioner. Accordingly, the respondent may take appropriate decision in accordance with law.

In view of above direction, Mr.Mankad, learned advocate for the petitioner seeks permission to withdraw this petition.

Permission is granted. Accordingly, this petition is disposed of as withdrawn. Rule is discharged with no order as to costs.

Direct service is permitted.

(P.B.Majmudar, J.)

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